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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2856

Session of  
1980

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INTRODUCED BY DORR AND WHITE, JULY 7, 1980

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JULY 7, 1980

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, further providing for landlord  
3 ratepayers and tenants, and for notice prior to  
4 discontinuance of service.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. The definitions of "landlord ratepayer,"  
8 "residential building" and "tenant" of section 1521, Title 66,  
9 act of November 25, 1970 (P.L.707, No.230), known as the  
10 Pennsylvania Consolidated Statutes, are amended and the section  
11 is amended by adding a definition to read:

12 § 1521. Definitions.

13 The following words and phrases when used in this subchapter  
14 shall have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Billing month." A period of time not to exceed 35 days.

17 "Landlord ratepayer." One or more individuals or an  
18 organization listed on a gas, electric, steam or water utility's

1 records as the party responsible for payment of the gas,  
2 electric, steam or water service provided to one or more  
3 residential units of a residential building or mobile home park  
4 of which building or mobile home park the party is not the sole  
5 occupant. In the event the landlord ratepayer is not party to a  
6 lease between himself or itself and the tenant, the term shall  
7 also include the individual or organization to whom the tenant  
8 makes rental payments pursuant to an oral or written lease.

9 \* \* \*

10 "Residential building." A building containing one or more  
11 dwelling units occupied by one or more tenants. The term does  
12 not include nursing homes, hotels, [and] motels or any dwelling  
13 wherein the landlord ratepayer is resident and shares common  
14 heating facilities with three or less tenants and shares common  
15 access to all parts of such dwelling unit.

16 "Tenant." Any person or group of persons [whose]  
17 contractually obligated to make rental payments to the landlord  
18 ratepayer pursuant to an oral or written lease of a dwelling  
19 unit in a residential building or mobile home park [is] provided  
20 gas, electricity, steam or water [pursuant to a rental  
21 arrangement for the dwelling unit, mobile home or plot of ground  
22 within a mobile home park] as an included service under such  
23 lease but who is not the ratepayer of the utility which supplied  
24 the gas, electricity, steam or water.

25 Section 2. Sections 1522(a), 1523(a), 1525(b), 1526(a),  
26 1527(b), (c) and (c.1), 1528, 1532 and 1533 of Title 66, are  
27 amended or added to read:

28 § 1522. Applicability of subchapter.

29 (a) General rule.--This subchapter applies to public  
30 utilities as defined in paragraph (1)(i) and (ii) of the

1 definition of "public utility" in section 102 (relating to  
2 definitions) and to public utility service rendered by those  
3 public utilities, if the premises served constitute "residential  
4 buildings" as defined in section 1521 (relating to definitions).

5 \* \* \*

6 § 1523. Notices before service to landlord discontinued.

7 (a) Nonpayment of charges.--Except when required to prevent  
8 or alleviate an emergency as defined by the commission or except  
9 in the case of danger to life or property, before any  
10 discontinuance of service to a landlord ratepayer for nonpayment  
11 of charges, a public utility shall:

12 (1) Notify the landlord ratepayer of the proposed  
13 discontinuance in writing as prescribed in section 1525  
14 (relating to delivery and contents of discontinuance notice  
15 to landlord) at least 37 days before the date of  
16 discontinuance of service.

17 (2) Notify the following agencies which serve the  
18 community in which the affected premises are located, in  
19 writing, [at the time of delivery of notice to the tenants of  
20 the proposed discontinuance of service] at least 20 days  
21 after the time of delivery of notice to the tenants of the  
22 proposed discontinuance and at least ten days before  
23 discontinuance of service:

24 (i) The Department of Licenses and Inspections of  
25 any city of the first class.

26 (ii) The Department of Public Safety of any city of  
27 the second class, second class A or third class.

28 (iii) The city or county Public Health Department  
29 or, in the event that such a department does not exist,  
30 the Department of Health office responsible for that

1 county.

2 (3) Notify each dwelling unit reasonably likely to be  
3 occupied by an affected tenant of the proposed discontinuance  
4 in writing as prescribed in section 1526 (relating to  
5 delivery and contents of first discontinuance notice to  
6 tenants) at least seven days after notice to the landlord  
7 ratepayer pursuant to this section and at least 30 days  
8 before the discontinuance of service. If within seven days of  
9 receipt of the notice to the landlord issued pursuant to this  
10 section the landlord ratepayer files a complaint with the  
11 commission disputing the right of the utility to discontinue  
12 service, the notice shall not be rendered until the complaint  
13 has been adjudicated by the commission, provided the landlord  
14 ratepayer shall continue to pay the undisputed portion of  
15 current bills when due pending the final decision on the  
16 complaint.

17 \* \* \*

18 § 1525. Delivery and contents of discontinuance notice to  
19 landlord.

20 \* \* \*

21 (b) Service of notice.--Any one of the following procedures  
22 shall constitute effective notice to the landlord under section  
23 1523:

24 (1) Notice by certified mail if the utility receives a  
25 return receipt signed by the landlord ratepayer or his agent.

26 (2) Notice by personal service of the landlord ratepayer  
27 or his agent.

28 (3) [After unsuccessful attempts at personal delivery on  
29 two separate days, notice] Notice by first class mail and  
30 conspicuously posting at the landlord ratepayer's principal

1 place of business or the business address which the landlord  
2 provided the utility as his address for receiving  
3 communications.

4 § 1526. Delivery and contents of first discontinuance notice  
5 to tenants.

6 (a) General rule.--The notice required to be given to a  
7 tenant pursuant to section 1523 (relating to notices before  
8 service to landlord discontinued) shall be [mailed or otherwise  
9 delivered to the address of each affected tenant] sent by first  
10 class mail to each affected individual dwelling unit and posted  
11 in common areas and shall contain the following information:

12 (1) The date on which the notice is rendered.

13 (2) The date on or after which service will be  
14 discontinued.

15 [(3) The circumstances under which service to the  
16 affected tenant may be continued specifically referring to  
17 the conditions set out in section 1527 (relating to right of  
18 tenants to continued service).]

19 (4) [The] On each account, the bill for the [30-day]  
20 billing month period preceding the notice to the tenants  
21 except in the case of water and sewer service where the  
22 billing period is bimonthly or quarterly, the utility shall  
23 provide an estimate of costs for the previous billing month.

24 [(5) The statutory rights of a tenant to:

25 (i) Deduct the amount of any direct payment to the  
26 utility from any rent payments then or thereafter due.

27 (ii) Protection against any retaliation by the  
28 landlord for exercising such statutory right.

29 (iii) Recover money damages from the landlord for  
30 any such retaliation.]

1       (5) The following statement of the tenant's rights: The  
2       payment of your landlord's utility bill is overdue, and  
3       therefore the utility service to your dwelling may be  
4       terminated in 30 days. It is important that you understand  
5       that you have the following rights:

6               (i) You will have a 30-day period in which you must  
7       act in one of the following ways:

8               (A) Take no action and have service terminated  
9       in 30 days.

10              (B) Subscribe for future service individually if  
11       this can be accomplished without a major revision of  
12       distribution facilities or additional right-of-way  
13       acquisitions.

14              (C) Act as a group with the other tenants or  
15       individually to pay the outstanding bill for the  
16       prior billing month. No tenant shall be required to  
17       pay a deposit or to establish credit in his or her  
18       own name nor shall any tenant be responsible for any  
19       debts or obligations of the landlord, or previous  
20       tenant in order to obtain continued service. If you  
21       live in a multiple occupancy dwelling which is served  
22       by one meter, the outstanding bill contained in this  
23       notice is for the total usage of all of the tenants  
24       served by the meter, rather than the usage for an  
25       individual dwelling.

26              (ii) If you send payment to the utility to try to  
27       pay this bill, but you and the other tenants are unable  
28       to pay the entire amount of the bill, the service will be  
29       shut off, and the utility will refund your payment.

30              (iii) You may deduct any direct payment to the

1       utility from any rent payment then or thereafter due.

2           (iv) You have the right to have the utility, upon  
3       receiving any payment, notify your landlord ratepayer of  
4       the amount paid by any tenant.

5           (v) The landlord may not retaliate against you for  
6       exercising your rights under 66 Pa.C.S. Ch. 15(B)  
7       (relating to discontinuance of service to leased  
8       premises).

9           (vi) If you have any questions, you may call your  
10       utility or the Pennsylvania Public Utility Commission at  
11       the following numbers:

12               (Insert appropriate telephone number)

13       (6) That tenants may make payment to the utility on  
14       account of nonpayment of charges by the landlord ratepayer  
15       only by check or money order drawn by the tenant to the order  
16       of the utility.

17       [(7) A telephone number at the utility and at the  
18       commission which a tenant may call for an explanation of his  
19       rights.]

20       \* \* \*

21       § 1527. Right of tenants to continued service.

22       \* \* \*

23       (b) Payment of charges by tenants.--A public utility shall  
24       not discontinue service or shall promptly resume service  
25       previously discontinued if it receives from the tenants an  
26       amount equal to the bill for the affected account of the  
27       landlord ratepayer for the [30-day] billing month period  
28       preceding the notice to the tenants. Thereafter, the utility  
29       shall notify each tenant of the total amount of the bill for the  
30       second and each succeeding billing month period [of 30 days or

1 less] and, if the tenants fail to make payment of any bill  
2 within 30 days of the delivery of the notice to the tenants, the  
3 utility may commence discontinuance [procedures] of service  
4 except that no discontinuance may occur until 30 days after each  
5 tenant has [received written] been furnished notice of the  
6 proposed discontinuance as prescribed in section 1528 (relating  
7 to delivery and contents of subsequent discontinuance notice to  
8 tenants). All payments of charges by tenants to a utility on  
9 account of nonpayment by the landlord ratepayer shall be made by  
10 a check or money order drawn by the tenant to the order of the  
11 utility.

12 (c) Disposition of payment by utility.--Upon receiving any  
13 payment, the utility shall notify the landlord ratepayer who is  
14 liable for the utility service of the amount or amounts paid by  
15 any tenant and the amount or amounts credited to the landlord's  
16 bill for each tenant pursuant to this section. [In the event  
17 that the tenants fail to satisfy the requirements of this  
18 section to maintain or restore service and service to the  
19 affected dwelling units is discontinued, the utility shall  
20 refund to each tenant the amount paid by the tenant toward the  
21 bill which the tenants failed to pay either upon the request of  
22 the tenant or after holding the tenant's payment during 60  
23 consecutive days of discontinued service, whichever occurs  
24 first.] Tenants requesting continued utility service under the  
25 provisions of this section, except those individually  
26 subscribing for service pursuant to subsection (d), shall not be  
27 considered utility customers, but shall be considered to be  
28 acting on behalf of the landlord ratepayer, who shall remain  
29 liable to the utility for service provided after notice to  
30 tenants. In the event the tenants fail to satisfy the



1 requirements of subsection (b) with regard to the first billing  
2 month period preceding notice to the tenant, the utility shall  
3 refund any such moneys received from a tenant to the tenant. Any  
4 payments made by the tenants shall be applied first against the  
5 bill for the billing month preceding notice to the tenants and  
6 then against bills for service rendered subsequent to such bill.  
7 Upon discontinuance of service to the tenants for failure to pay  
8 the utility's bill for service in full, the provisions of  
9 subsection (c.1) shall apply.

10 (c.1) Refunds for overpayment by tenant in final month.--A  
11 utility shall refund to a tenant any overpayment made by the  
12 tenant to the utility in the final month of service when the  
13 tenant signs a form provided by the utility swearing or  
14 affirming that all the following facts are true:

15 (1) The tenant has not deducted the entire final payment  
16 to the utility from any rental payment to the landlord.

17 (2) The entire final payment to the utility is not  
18 offset by rent legally owing to the landlord at the time of  
19 making the application for refund pursuant to this  
20 subsection.

21 (3) The tenant has permanently departed the residential  
22 building at the time of making the application.

23 \* \* \*

24 § 1528. Delivery and contents of subsequent discontinuance  
25 notice to tenants.

26 Subsequent notices required to be given to a tenant pursuant  
27 to section 1527 (relating to right of tenants to continued  
28 service) shall be [mailed or otherwise delivered to the address  
29 of each affected tenant] sent by first class mail to each  
30 affected individual dwelling unit and posted in common areas and

1 shall contain the following information:

2 (1) The date on or after which service will be  
3 discontinued.

4 (2) The amount due which shall include the arrearage on  
5 any earlier bill due from tenants.

6 (3) A telephone number at the utility and at the  
7 commission which a tenant may call for an explanation of his  
8 rights.

9 (4) The right of a tenant to file a complaint with the  
10 commission to enforce any legal right that he may have under  
11 this part.

12 (5) The right of a tenant to apply for a refund where  
13 appropriate, pursuant to section 1527(c.1) (relating to  
14 rights of tenants to continued service.

15 § 1532. Penalties.

16 (a) Failure to identify tenants.--Any landlord ratepayer who  
17 fails to provide a utility with the names and addresses of  
18 affected tenants pursuant to section 1524 (relating to request  
19 to landlord to identify tenants) shall forfeit and pay to the  
20 Commonwealth a civil penalty of not more than \$500 for each day  
21 of the landlord ratepayer's failure to respond. The court [in  
22 its discretion may] shall award the utility reasonable  
23 attorneys' fees, filing fees and reasonable costs of suit for  
24 any action against the landlord ratepayer which was necessary to  
25 obtain the names and addresses of affected tenants pursuant to  
26 section 1524.

27 (b) Tampering with posted notice.--Any person who removes,  
28 interferes or tampers with a notice to tenants of proposed  
29 discontinuance of service, posted pursuant to section 1526  
30 (relating to delivery and contents of first discontinuance

notice to tenants) commits a summary offense and shall, upon conviction, be sentenced to pay a fine not exceeding [\$25] \$300.  
§ 1533. Petition to appoint receiver.

(a) Appointment of receiver.--Notwithstanding the foregoing sections of this chapter, when a landlord ratepayer is two or more months in arrears in his utility payments, the affected utility shall have the right to petition the court of common pleas of the county wherein the leased premises are located to appoint a receiver to collect rent payments otherwise due the landlord ratepayer directly from the tenants and to pay all overdue and subsequent utility bills therefrom. The provisions of this section shall not be construed to supersede any tenant rights or defenses under law regarding the payment of rent. This right may be exercised only in those situations that involve [50] 20 or more rental units in which the units are not individually metered by the utility. Upon appointment, the receiver shall notify the tenants of his powers and their rights under law regarding payment of rent and continued utility service by first class mail, certified mail, or personal service or posting each unit in the leased premises.

(b) Right to continued service.--The affected utility under this section shall not discontinue utility service if it receives payment from the receiver in the amount specified in subsection (c)(2) within 60 days from the date notice to the tenants of the appointment of the receiver is mailed or delivered.

(c) Duty of receiver.--The receiver shall:

- (1) collect all rents directly from the tenants;
- (2) pay the utility bills equal to the amount due for the [30-day] billing month period prior to the tenant

1 receiving notice of the appointment of the receiver and all  
2 future bills as they become due;

3 (3) after payment of the amounts in subsection (c)(2),  
4 any excess moneys shall be applied pursuant to further order  
5 of court; and

6 (4) return the remainder to the landlord ratepayer, less  
7 the costs of the notification made to the tenants, plus a 2%  
8 administrative fee.

9 (d) Discontinuation.--The receiver shall continue to collect  
10 the rents and make disbursements in the manner provided in  
11 subsection (c) until the second rental period ends after all of  
12 the following conditions have been met:

13 (1) the landlord ratepayer deposits in escrow with the  
14 utility a sum equal to the utility charges from the two  
15 highest monthly periods in the preceding 12 months; and

16 (2) the landlord ratepayer demonstrates to the  
17 satisfaction of the court of common pleas that it has the  
18 financial resources necessary to resume its obligations to  
19 the utility and the tenants.

20 (3) The landlord ratepayer pays the undisputed portion  
21 of all outstanding utility bills.

22 At such time rental payments will once again be made to the  
23 landlord ratepayer. Notice of this change shall be made to the  
24 tenants by the receiver by means of first class mail, certified  
25 mail, or personal service, which costs shall be paid by the  
26 landlord ratepayer.

27 (e) Escrow fund.--The escrow fund established under  
28 subsection (d)(1) shall not be considered a prepayment of  
29 utility costs and shall only be applied against outstanding  
30 utility bills at the time a new receiver is appointed for a

1 subsequent failure by the landlord ratepayer to pay utility  
2 bills for a two-month period. Said escrow fund shall be returned  
3 to landlord ratepayer not later than 90 days nor earlier than 60  
4 days, after the landlord ratepayer obtains a court order  
5 releasing such funds and certifying that timely payment of  
6 utility bills has been made for the immediately preceding 24  
7 consecutive months.

8 (f) Interest on funds.--Any funds held in escrow by any  
9 utility shall bear interest at a rate to the landlord 1% lower  
10 than [the maximum rate allowed by the Federal Reserve Board to  
11 be paid on regular savings accounts at commercial banks.]  
12 actually received in a regular savings account at a commercial  
13 bank within the court's jurisdiction and the remaining 1% shall  
14 be remitted to the court for administrative costs.

15 (g) Number of receivers.--In the event more than one utility  
16 company is affected by any landlord ratepayers' failure to pay  
17 utility bills, the court shall appoint the same receiver to  
18 function for all aggrieved utilities.

19 Section 3. This act shall take effect in 30 days.